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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,954	12/17/2001	Theodore Rappaport	02560039AA	2954

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EXAMINER

BLACKMAN, ANTHONY J

ART UNIT	PAPER NUMBER
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2676

DATE MAILED: 11/17/2004

14 & 15

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

**Application No.**

10/015,954

**Applicant(s)**

RAPPAPORT ET AL.

**Examiner**

ANTHONY J BLACKMAN

**Art Unit**

2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 42,43,85 and 86 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42,43,85 and 86 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 42-43 are rejected under 35 USC 101, because said claim is directed to non-statutory subject matter.

As per claims 42-43, as drafted said claim is not limited by language within the technological arts (see *In re Waldbaum*, 173 USPQ 430 (CCPA 1972); *in re Musgrove*, 167 USPQ 280 (CCPA 1970) and *In re Johnson*, 183 USPQ 172 (CCPA 1974) also see MPEWP 2106 IV 2(b), even though said claim is limited by language to a useful, concrete and tangible application (See *State Street v. Signature Financial Group*, 149 F.3d at 1374-75, 47 USPQ 2d at 1602 (Fed. Cir. 1998); *AT&T Corp v. Excel*, 50 USPQ 2d 1447, 1452 (Fed. Cir. 1999).

Notre: it is well settled in the law that "[although] a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *in re Prater*, 415, F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claims that are not recited in the claims." (See MPEP 2173.05 (q)).

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 42 recites the limitation "the group consisting of measured performance metrics and inputted quality measures" in lines 5-6 of claim 42. There is insufficient antecedent basis for this limitation in the claim.

***Response to Amendment***

4. Regarding the following amendments (underlined text) for claims 42 – obtaining an environmental database model of at least one physical environment in which said physical objects or networks may be distributed; and claim 85 – “...said environmental database model having a computer representation of at least one physical environment in which said physical objects or networks may be distributed,” applicant's use of “...may be...” should be changed to “are” because use of “may be” does not have patentable weight and does not describe or explain the distribution process. Further, use of “may be” is not definite. Therefore, the amended features of claims 42 and 85 cited above have no patentable weight. Thusly claims 42-43 and 85-86 will be interpreted without the amended limitations above.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 42-43 and 85-86 are rejected under 35 U.S.C. 102(e) as being anticipated by LAMB, US Patent No. 6,791,571.

6. As per claim 42, LAMB disclose the following features as claimed

A method for visualizing a spatially distributed group of physical objects or networks (the underlined physical objects are at least chosen, figure 2, fig 4 and fig 5 column 2, ll. 45-53, col 3, ll. 2-7, 18-30, 40-56, col 5, ll. 56-col 6., 20), comprising the steps of: collecting measurement information and descriptive information for said distributed group of physical objects or networks by obtaining measurement information selected from the group consisting of measured performance metrics and inputted quality measures (the underlined feature is at least chosen, figures 4-5 and column 7, ll. 15-51), obtaining descriptive information from a predefined set of selections wherein said selections are selected from the group consisting of text strings/ and ***icons/expanded format*** (figures 4-5, element 412 selects among make and model automobiles, and column 8, ll. 19-col 9, ll. 7), and associating and storing said measurement information and said descriptive information(col. 7, ll. 66-col 8, ll. 9); obtaining an environmental database model/expanded view of vehicle(col. 8, ll. 19-col 9, ll. 16) of at least one physical environment in which said physical objects or networks may be distributed (for

interpretation of this feature, please see Response to Amendment above); and displaying at least one of said measurement information and said descriptive information collected in said collecting step together with at least a portion of said environmental database model (col. 8, ll. 10-col. 9, ll.16).

7. As per claim 43, LAMB meet limitations of claim 42, including limitations of claim 43 as recited, The method of claim 42 wherein said measurement information and said descriptive information pertains to a specific location in said environmental database model and said step of displaying includes the step of displaying said at least one of said measurement information and said descriptive information at said specific location in said environmental database model/expanded view (the at least underlined feature is disclosed – col. 7, ll. 26-51 and 66-col. 8, ll. 9 and fig. 5, elements 512, 516 and 524).

8. As per claim 85, LAMB disclose the features and limitations substantially similar to those of claim 42, except for use of a computer (see at least fig. 1, element 150 and col. 2, ll. 1-9) as

A system for visualizing a spatially distributed group of physical objects or networks, comprising:

at least one computer;

an input for inputting measurement information selected from the group consisting of measured performance metrics and quality measures into said at least one computer;

at least one of a computer program operating on said at least one computer or at least one measurement device operating with said at least one computer which associates said at least one performance metric with descriptive information selected from the group consisting of text strings and icons, wherein said text string and icons are selected from a predefined set;

an environmental database model operating in conjunction with said at least one computer, said environmental database model having a computer representation of at least one physical environment in which said physical objects or networks may be distributed; and

a display for displaying at least one of said measurement information and said descriptive information with at least a portion of said environmental database model.

9. As per claim 86, LAMB meets limitations and features of claim 85 disclosing the features and limitations substantially similar to those of claim 43 as

The system of claim 85 wherein said measurement information and said descriptive information pertains to a specific location in said environmental database model and said display displays said at least one of said measurement information and said descriptive information at said specific location in said environmental database model.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. BROWN, US Patent No. 5,794,216 discloses database

modeling, including fig. 15 showing a house and fig 16 showing a room of a house/portion of an environmental database. OHMURA et al, US Patent No. 6,678,591 discloses an environmental/global/relational database, displaying at least a portion of said database, including troubleshooting areas such as "Tire Change" (fig. 15, 17 displays car portion with associated troubleshooting instructions). SCHMITT, US Patent No. 6,463,431 disclose a database evaluation system (DES), fig 17 disclose descriptive type text associated with thumbnails of automobiles and various quality features, fig 24 – car model and features and fig 26 (col 21, ll. 35-50 – showing user selected attributes and determining nearest neighbor means in a fractal type display).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY J BLACKMAN whose telephone number is 703-305-0833. The examiner can normally be reached on FLEX SCHEDULE.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW BELLA can be reached on 703-308-6829. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

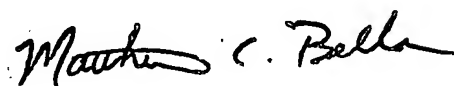


Art Unit: 2676

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ANTHONY J BLACKMAN  
Examiner  
Art Unit 2676

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